

§Appl. No. 09/869,709  
Amdt. dated September 3, 2004  
Reply to Office Action of, April 5, 2004

### **REMARKS**

In telephone conference with Examiner Lucas on or about August 5, 2004, the undersigned indicated Applicant's intent to amend the claims to "Grb2." The examiner agreed to examine such claims upon filing of this enclosed Request for Continued Examination (RCE).

2-3. The arrangement of the application elements described in 37 C.F.R. §1.77 are not *required* by statute to obtain a patent, but are only suggested by the Patent Office (e.g., "should" as compared to "must" as stated in §1.71 regarding the written description requirement). Therefore, while this arrangement may be preferred by the Patent Office, it is clearly not necessary to support the claims of this application.

12-13. The term "ras-like" has been cancelled from the claims.

19. The test substance, fusion protein comprising ras fused to an adaptor, and membrane receptor are separate and different entities. Although it is believed that this was clear on its face, in effort to clarify the issue, Claim 41 has been amended to recite that the "test substance is a fusion protein comprising a ligand domain capable of binding to said membrane receptor."

20, 22, 23, and 29. The claims have been amended by deleting the term "type."

21. Claims 80-81 have been amended to correct the inadvertent omission of the word "by."

24-25. The claims have been amended to recite that the adaptor is "Grb2 polypeptide."

32. The generic disclosure in the Trueheart patent (U.S. Pat. No. 6,159,705) is being used as a template to impermissibly reconstruct the claimed invention. For example, this reference is

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relied upon by the examiner to reach into the publications by Aronheim (1997) and Isakoff et al. (1998) to extract their disclosure of certain fusion proteins. In fact, neither of the latter two publications utilizes an epidermal growth factor receptor, let alone a tyrosine kinase receptor. The fusion protein in Aronheim comprises hSos, and in Isakoff et al. it is Ras with a PH-domain. Consequently, there would have been no motivation to combine Trueheart with Aronheim (1997) and/or Isakoff et al. (1998). Furthermore, the systems are not analogous, and therefore it is improper to combine them.

The Ostanin patent (U.S. Pat. No. 6,251,605) is of a similar ilk of the Trueheart patent, and does not provide motivation coupled with an expectation of success to have selected the claimed elements to arrive at the claimed invention. Once this rejection is determined to be unfounded, the rejection of the remaining claims over additional prior art references can not be maintained. Therefore, it is not necessary to discuss their specific deficiencies.

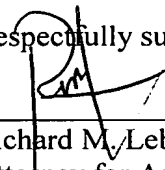
Moreover, Claim 1 and others have been amended to incorporate aspects of claim 25, which has not been rejected under Sections §102 and/or §103. It is therefore believed that the claims are now in condition for allowance.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

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The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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